

REMARKS

Entry of the foregoing, reconsideration and reexamination of the above-identified application are respectfully requested. Claims 2-20, 22, 25 and 27 stand rejected. Claims 21 and 23 have been withdrawn from consideration. Claims 1, 24 and 26 were previously canceled. By this amendment, applicants cancel all outstanding and pending claims, and introduce new claims 28-41.

Among other things, new claims 28-40 are directed to methods of treatment involving the administration of biodegradable microspheres containing 5-FU, wherein said microspheres are in a sterile solution containing specific types and quantities of excipients, carriers, and diluents. Also, claims 28-39 eliminate the requirement of a subsequent radiotherapy step. Applicants submit that the newly interposed claims eliminate the outstanding §112 rejections, and so applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. § 112.

Prior Art Rejections

Claims 2-7, 9-15, 17-20, 22, 25 and 27 stand rejected under § 103(a) as unpatentable over Emerich et al. in view of Kubo et al. Applicants respectfully traverse the rejection.

The newly interposed claims are patentable over Emerich et al., either alone or in combination with Kubo et al. Emerich et al. discloses treating glioma with carboplatin-loaded microspheres, which is a compound different from 5-FU. The Emerich reference fails to teach or suggest the combination of claimed surfactant, viscosity modifier, and isotonicity agent; and fails to teach or suggest the precise quantities involved. Those agents contribute to the substantial advantage whereby the claimed method maintains a therapeutically effective amount of the active agent

in the parenchymal space for at least three weeks. *Specification at pp. 5-6.*

Applicants respectfully submit that it would not have been obvious to one of ordinary skill in the art at the time the invention was made to create the claimed composition, and administer it according to the instant claims, because, among other things, there is no teaching or suggestion identified in the cited art that such a formulation can achieve the prolonged half-life of the instant method.

Claims 2-9, 16-18, 20 and 27 stand rejected under §103(a) as unpatentable over Boisdstron-Celle et al. in combination with Kubo et al. Applicants respectfully traverse the rejection.

Boisdstron-Celle et al. neither teaches nor suggests the instant invention, either alone or in combination with Kuo et al. The Boisdstron-Celle et al. reference discloses a controlled release device comprising degradable microspheres containing 5-FU to treat glioma without teaching or suggesting the use of the claimed combination of surfactant, viscosity modifier, and isotonicity agent; nor does the reference teach or suggest the specific quantities now claimed. Further, the rejection fails to identify any teaching within the reference(s) of a prolonged duration or residence of the active agent within the parenchymal space. *See, specification at pp. 5-6.*

The rejection fails to identify any teaching in the cited reference(s) that would have motivated one of ordinary skill in the art to implement a method of treatment as claimed using the recited formulation. Accordingly, there is no prima facie case that it would have been obvious to one of ordinary skill in the art at the time the invention was made to choose these specific agents in the claimed quantities, and to

administer them in accordance with the claimed method. Reconsideration and withdrawal of the rejection is requested.

In view of the foregoing amendments and remarks, applicants respectfully submit that the newly interposed claims are patentably distinct over the cited references. Applicants respectfully request reconsideration and withdrawal of all outstanding rejections, and a formal notification of allowance. If, however, the Examiner perceives any impediments to such formal notification, whether formal or substantive, the Examiner is encouraged to call applicants' attorney at the number provided below. Such informal communication will expedite examination and disposition of the instant case.

Respectfully submitted,

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